

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK (BROOKLYN)**

IN RE:

**CASE NO.: 1-18-44952-cec  
CHAPTER 13**

**CHARMAINE YAP,  
DBA JAARUBA OF SUCCESS, LLC,**

Debtor,

**NOTICE OF MOTION**

**PLEASE TAKE NOTICE**, that upon the annexed application of attorneys for MTGLQ INVESTORS, L.P. (hereinafter “Movant”), the undersigned respectfully moves this Court for an order, pursuant to sections 105 and 553 of the bankruptcy code, to allow application of payments to mortgage loan and such other and further relief as to the Court may seem just and proper.

**PLEASE TAKE FURTHER NOTICE** that this motion shall be returnable on November 14, 2019 at 11:00 a.m. of that day, or as soon thereafter as counsel can be heard, before the Hon. Carla E. Craig at Conrad B. Duberstein Courthouse, 271-C Cadman Plaza East, Brooklyn, NY 11201-1800.

**PURSUANT TO BANKRUPTCY RULE 9014 AND LOCAL BANKRUPTCY RULE 9006-1(b), IF YOU INTEND TO OPPOSE THE MOTION, YOU MUST SERVE ON MOVANT’S COUNSEL AND FILE WITH THE CLERK OF THE BANKRUPTCY COURT, WRITTEN OPPOSITION TO THE MOTION SO AS TO ENSURE ACTUAL**

**RECEIPT NOT LATER THAN SEVEN (7) DAYS BEFORE THE RETURN DATE.**

Dated: October 10, 2019

RAS Crane, LLC  
Attorney for Secured Creditor  
10700 Abbott's Bridge Road, Suite 170  
Duluth, GA 30097  
Telephone: 470-321-7112  
Facsimile: 404-393-1425

By: /s/ Barbara Whipple  
Barbara Whipple, Esquire  
Email: bwhipple@rasflaw.com

TO:

BARAK P CARDENAS  
CARDENAS ISLAM & ASSOCIATES, PLLC  
175-61 HILLSIDE AVENUE SUITE 302  
JAMAICA, NY 11432

MICHAEL J. MACCO  
CHAPTER 13 TRUSTEE  
2950 EXPRESS DRIVE SOUTH SUITE 109  
ISLANDIA, NY 11749

OFFICE OF THE UNITED STATES TRUSTEE  
201 VARICK STREET, SUITE 1006  
NEW YORK, NY 10014

CHARMAINE S YAP  
DBA JAARUBA OF SUCCESS, LLC  
144-18 159TH STREET  
JAMAICA, NY 11434

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK (BROOKLYN)**

IN RE:

**CASE NO.: 1-18-44952-cec  
CHAPTER 13**

**CHARMAINE YAP,  
DBA JAARUBA OF SUCCESS, LLC,**

Debtor,

**MOTION TO ALLOW APPLICATION OF PAYMENTS TO MORTGAGE LOAN**

COMES NOW, MTGLQ INVESTORS, L.P. ("Secured Creditor"), by and through its undersigned counsel, files its Motion TO Allow Application of Payments to Mortgage Loan ("Motion"), and states as follows:

1. Debtor, Charmaine S Yap dba Jaaruba of Success, LLC ("Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on August 29, 2018.
2. Secured Creditor holds a security interest in the Debtor's real property located at 144 -18 159TH ST, JAMAICA, NY 11434 (the "Property").
3. The Debtor filed a Chapter 13 Plan on September 5, 2018.
4. Secured Creditor filed a secured proof of claim (Claim No. 1) on November 7, 2018 ("Claim"). The proof of claim indicated the arrears at the time of filing was \$ 114,544.09.
5. The Debtor filed an Amended Chapter 13 Plan on November 28, 2018.
6. Debtor filed a Request to enter into the Loss Mitigation Program on November 28, 2018.
7. A Second Amended Chapter 13 Plan was filed by Debtor on January 4, 2019.
8. An Order Directing the Debtor and Creditor Nationstar Mortgage LLC to participate in the Loss Mitigation Program was entered on January 18, 2019.
9. A Third Amended Chapter 13 Plan was filed by Debtor on February 1, 2019 ("Plan").
10. An Order Confirming the Third Amended Chapter 13 Plan was entered on February 22, 2019.
11. An Order Terminating Loss Mitigation period with respect to Creditor Nationstar Mortgage LLC was entered on March 7, 2019. The debtor requested that loss mitigation be terminated and no resolution was reached.

12. The Confirmed Plan provides that the arrears will be paid by the Trustee through the plan and Debtor is to make on-going contractual payments.
13. After loss mitigation was terminated, the Secured Creditor received funds totaling **\$190,000.00** directly from Debtor as follows:
  - \$40K Official Check from TD Bank
  - \$20K Online Bill Pay from Chase
  - \$130K Official Check from Money Gram
14. The total payoff on the loan is approximately **\$275,000.00**.
15. Upon receipt of the funds this office spoke with debtor's counsel and we were advised that the debtor would be making a motion to allow the funds to be applied by the secured creditor.
16. No such motion has been filed.
17. By this motion the Movant is seeking approval from the Court and Chapter 13 Trustee to apply these funds to the loan.
18. No previous application has been made.

**WHEREFORE**, Secured Creditor respectfully requests this Court grant Secured Creditor's Motion to Allow Payment to be applied to the mortgage loan, and for such other and further relief as the Court may deem just and proper.

RAS Crane, LLC  
Attorney for Secured Creditor  
10700 Abbott's Bridge Road, Suite 170  
Duluth, GA 30097  
Telephone: 470-321-7112  
Facsimile: 404-393-1425

By: /s/ Barbara Whipple  
Barbara Whipple, Esquire  
Email: bwhipple@rasflaw.com

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on October 10, 2019, I caused to be electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and a true and correct copy has been served via CM/ECF or United States Mail to the following parties:

BARAK P CARDENAS  
CARDENAS ISLAM & ASSOCIATES, PLLC  
175-61 HILLSIDE AVENUE SUITE 302  
JAMAICA, NY 11432

MICHAEL J. MACCO  
CHAPTER 13 TRUSTEE  
2950 EXPRESS DRIVE SOUTH SUITE 109  
ISLANDIA, NY 11749

OFFICE OF THE UNITED STATES TRUSTEE  
201 VARICK STREET, SUITE 1006  
NEW YORK, NY 10014

CHARMAINE S YAP  
DBA JAARUBA OF SUCCESS, LLC  
144-18 159TH STREET  
JAMAICA, NY 11434

RAS Crane, LLC  
Attorney for Secured Creditor  
10700 Abbott's Bridge Road, Suite 170  
Duluth, GA 30097  
Telephone: 470-321-7112  
Facsimile: 404-393-1425

By: /s/ Barbara Whipple  
Barbara Whipple, Esquire  
Email: bwhipple@rasflaw.com